

Chesapeake Bay Preservation Act Work Program

Board Committee of the Whole

September 21, 2010





Board Direction

- At the June 15, 2010 Committee of the Whole Meeting, the Board of Supervisors:
 1. Forwarded the Draft Amendments to the September 21, 2010 Board Committee of the Whole Meeting for review; and
 2. Directed Staff to continue public outreach through meetings with Board members (as requested) in each Election District, and to advertise a public education meeting directed at Homeowner Associations.



Outreach Forums (Staff Attended)

- June 17, 2010 – Dulles North
- June 22, 2010 – Dulles South
- July 27, 2010 – Broad Run Farms
- July 29, 2010 – Potomac
- September 1, 2010 – Catoctin/Blue Ridge
- September 9, 2010 – Sugarland Run
- September 18, 2010 – HOA Information Session
 - Approximately 30 people attended with 16 speakers



Common Outreach Issues

- Process Issues:
 - Questions regarding the validity and accuracy of the County's Stream Assessment – and whether the County's streams are really impaired;
 - If streams are impaired, the County should identify the sources of impairment and tailor regulations to address the specific causes;
 - The benefits of the Amendments need to be quantified to determine if they are worth the added cost to residents (no cost/benefit analysis);
 - Concern that implementation of the Amendments will require additional staff and an additional tax burden on residents;
 - Concern that the County is moving too fast without residents having a clear understanding of the Amendments and how they could be impacted.



Common Outreach Issues

- Substance Issues:
 - Concern regarding the added time and cost to do a project (particularly for accessory structures such as sheds, decks, pools, patios, etc);
 - Concern that the CBPO Map only shows the general extent of the RPA – which leads to uncertainty and confusion and could impact property values and the ability to sell;
 - Confusion regarding Staff's use of the "RMA/Possible RPA" area of the Screening Tool and whether the entire (yellow) area could become RPA (green);
 - Concern that there is no apparent flexibility to tailor the regulations to Loudoun County (Why the Bay Act?);
 - Questions as to why homeowners can't be exempt from the regulations – given their small impact compared to that of developers.



CBPO Changes

- Clarify:
 - **Water Body with Perennial Flow**
 - **RPA delineation requirements**
 - **Nonconforming structures and uses**
 - **Exemption for land disturbing activity \leq 2,500 square feet in the Resource Management Area**
 - **When the RPA is required to be planted**



CBPA Map Revisions

- Remove RPA where perennial water bodies are not present.
- Create an enhanced drainage map layer that combines the perenniality attribution of the soils drains layer with the positional accuracy of the base map layer (based upon aerial photography).
- RPA removed from 299 parcels; RPA added to 187 parcels.
- Suggest “Corrections Clause” amendment to CBPO to address future discrepancies.



Cost Saving Highlights

- Eliminate the RPA Delineation requirement for single family detached dwellings, associated accessory structures, or any structures intended for agricultural use that disturb over 2500 square feet of land and are located more than 200 feet from drainage features that have the potential to be perennial.
- Allow for Modified Perennial Flow Determinations (e.g. photographs) for a drainage area < 35 acres.
- Only require that grading plans be prepared by an engineer when grading is proposed within 100 feet of a delineated RPA.



Cost Saving Highlights

- Eliminate the bond requirement for single family detached dwellings, associated accessory structures, or any structure intended for agricultural use that disturbs less than 10,000 square feet (except in Mountainside Development Overlay District, Steep Slopes, and RPA).
- Divide the Water Quality Impact Assessment (WQIA) into a Minor and Major WQIA, such that an engineer/consultant is not required for waiver/exception applications for disturbances \leq 2,500 square feet in the landward 50-feet of the RPA.



Stormwater Pond Research

- RPA would not apply to wet ponds designed as stormwater management facilities, except where the size of the facility exceeds stormwater management requirements and is designed as amenity.
- 43 wet ponds identified to date – 27 classified as amenities; 16 classified as stormwater management facilities are recommended to be removed from the RPA, which would reduce the number of lots in the RPA.



Chesapeake Bay TMDL

- TMDL = Total Maximum Pollutant Load
- Pollutant diet identifying the maximum amount of sediment/nutrients (nitrogen and phosphorus) that can be discharged into tributaries to the Bay.
- EPA is scheduled to complete the TMDL by May 11, 2011.
- States will likely assign allocations by watershed.
- Virginia's Phase I Watershed Improvement Plan, published on September 7, 2010, indicated that expansion of the Bay Act could be considered to meet the allocations.
- The proposed Bay Act amendments provide sediment and nutrient reductions that can be credited toward any future allocation.



CPAM

- The Planning Commission is awaiting further direction on when to certify the Comprehensive Plan Amendment (CPAM).



WRTAC Memo

- The Water Resources Technical Advisory Committee provided an assessment of the draft amendments (requested by the Transportation Land Use Committee). WRTAC recommends implementation of the three pollution control measures proposed by the CBPO:
 - **vegetative buffers for perennial streams,**
 - **septic system pump-outs, and**
 - **enhanced erosion and sediment control requirements.**



Next Steps

- Staff recommends that the Board forward the draft amendments to a future meeting for additional review.
- Staff is prepared to summarize the top issues identified in the Board Comment Matrix and to respond to questions.